

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

HERBERT ARCENEAUX, #1920251

Plaintiff,

v.

WARDEN, et al.,

Defendants.

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Case No. 6:23-cv-318-JDK-JDL

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Herbert Arceneaux, proceeding pro se, filed this lawsuit under 42 U.S.C. § 1983 while he was an inmate of the East Texas Treatment Facility and did not pay the filing fee. The case was transferred to this Court for proper venue and referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On September 29, 2023, Judge Love issued a Report recommending that Plaintiff's lawsuit be dismissed for failure to prosecute because Plaintiff had failed to comply with the Court's order to either pay the filing fee or support his application to proceed as a pauper with the required documentation. Docket No. 8. A copy of this Report was mailed to Plaintiff, but it was returned as undeliverable. Docket No. 9. Plaintiff has not objected, filed a notice of change of address, or taken any other action to prosecute this case since it was filed.


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of the Report and Recommendation.

28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge’s findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge’s Report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law.”).

Having reviewed the Magistrate Judge’s Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 8) as the findings of this Court. It is therefore **ORDERED** that Plaintiff’s application to proceed as a pauper (Docket No. 2) is **DENIED**, and this case is **DISMISSED** without prejudice for failure to prosecute. All pending motions are **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this **6th** day of **November, 2023**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE